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Report of the Secretary-General pursuant to paragraph 30 of resolution 1546 (2004)

I. Introduction

1. In paragraph 30 of resolution 1546 (2004) of 8 June 2004, the Security Council requested the Secretary-General to report to the Council on a quarterly basis on the fulfilment of the responsibilities of the United Nations Assistance Mission for Iraq (UNAMI). The present report is the sixth submitted pursuant to that resolution.

2. The report provides an update on United Nations activities in Iraq since the last report (S/2005/585 of 7 September 2005). It presents a summary of key developments in the political transition process in Iraq, particularly with regard to the constitutional and electoral processes, and also covers regional developments pertaining to Iraq. The report also provides an assessment of the security situation and an update on operational matters, including security arrangements for the United Nations presence in Iraq.

3. In resolution 1637 (2005) of 11 November 2005, the Security Council affirmed that the United Nations "should continue to play a leading role in assisting the Iraqi people and government with further political and economic development".

II. Summary of key developments in Iraq

A. Political process

4. During the period under review, the political transition process endorsed by the Security Council in resolution 1546 (2004) focused mainly on finalizing the draft constitution, organizing and conducting the constitutional referendum on 15 October and preparations for the elections scheduled for 15 December 2005.

Finalization of draft constitution

5. As described in my last report, the Transitional National Assembly unanimously adopted a resolution on 15 August — the original deadline for finalizing the draft text of the constitution, to amend the Transitional Administrative Law to allow an additional seven days to reach a consensus on the constitution. Following further negotiations, it was determined that two separate three-day

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extensions were required to come to an agreement on outstanding issues. On 28 August, a draft text was read out in the Assembly without a vote. However, a number of fundamental issues in the following areas, on which agreement could not be achieved, remained the subject of continued negotiations between 28 August and 13 September: the Arab identity of the Iraqi State; access to human rights provisions in treaties ratified by Iraq; the modalities for the election of the President and Vice-Presidents; the distribution of Iraq's water resources (both internal and external water sources); the question of de-Baathification; and the institution of two deputy Prime Ministers in the first electoral cycle under the new constitution. At the request of the negotiating parties, my Special Representative and his team provided proposals for compromise positions for consideration by the parties on these issues and agreement was eventually reached on amendments on all of the foregoing issues.

6. On 18 September, the amendments to the draft text of 28 August were read out in the Transitional National Assembly. However, the absence of significant Sunni Arab participation in these informal negotiations led to further efforts to broaden support for the constitution, particularly among the Sunni Arab community. Following further negotiations, additional amendments were agreed upon and read out in the Assembly without a vote on 12 October. These amendments related to the following issues: the federal and united character of Iraq; the use of the two official languages of Iraq by the federal and official institutions in the Kurdistan region; Iraqi citizenship; the administration of "national treasures", such as archaeological sites and historic buildings; the question of de-Baathification; and the institution of a constitutional review process.

7. The constitutional review process foreseen by the amended draft constitution provides for a comprehensive review of the new constitution following the convening of the new Parliament, the Council of Representatives, after the planned elections on 15 December. According to article 142 of the constitution, the Council of Representatives shall form, "at the beginning of its work", a committee from its members to represent the key components of Iraqi society. The task of the committee will be to present to the Council of Representatives a report within four months, including recommendations for the "necessary amendments to the constitution". The committee will subsequently be dissolved. The amendments will be considered approved if they receive a majority of votes. They will then be presented to the Iraqi people in a referendum within two months from the date of approval of the amendments by the Council of Representatives. The amendments will be agreed upon if they receive the majority of votes and if they are not rejected by two thirds of voters in three governorates.

8. In a ceremony on 13 October, which was declared National Constitution Day, the amended draft constitution was endorsed by the Transitional Government of Iraq. However, many Sunni Arab groups reaffirmed their position not to support the constitution in the referendum, with the exception of the Iraqi Islamic Party, which changed its position and announced that it would support the constitution in the referendum. In a message to the Iraqi people on the same day, I emphasized its significance for the Iraqi people as a day for peaceful debate and reflection on the merits of the constitution and expressed the hope that Iraqis would see the constitutional referendum on 15 October as an opportunity to move away from violence and uncertainty and towards national reconciliation.

Referendum on the constitution

9. In accordance with the Transitional Administrative Law, the referendum on the constitution was held on 15 October. Under difficult conditions, the Independent Electoral Commission of Iraq, with the assistance of the United Nations and the International Electoral Assistance Team, which also included experts from the International Foundation for Election Systems (IFES), successfully organized the referendum on the draft constitution. More than 175,000 observers and political entity agents were accredited by the Electoral Commission for the referendum. Reports released by major observer groups were generally positive on the conduct of the referendum.

10. In accordance with the Transitional Administrative Law, the referendum was to be considered successful and the draft constitution ratified if a majority of the voters approved and if two thirds of the voters in three or more governorates did not reject it. According to the final certified results released by the Electoral Commission on 25 October, 64.6 per cent of all eligible voters turned out to participate in the referendum, with 79 per cent voting in favour and 21 per cent against. A total of 9,852,291 votes were cast from 6,235 polling centres and more than 32,000 polling stations. Two governorates voted by more than two thirds to reject the constitution: Al Anbar (3 per cent yes, 97 per cent no); and Salahaddin (18 per cent yes, 82 per cent no). While a majority of voters in Ninewa rejected the constitution (45 per cent yes, 55 per cent no), the outcome fell short of the two thirds majority threshold required to qualify as a "no" vote. Thus, given that the majority of the electorate voted in favour of the constitution and only two governorates voted against it, the Board of Commissioners of the Electoral Commission decided that the draft constitution was adopted.

11. Overall, referendum day saw a high level of voter turnout throughout the country and among all the main political constituencies, despite the difficult security situation in which the referendum took place. This result marked a change from the elections held in January, where the turnout was significantly low in some areas and among some groups, particularly Arab Sunnis.

12. Since the results in some governorates showed unusually high proportions of votes in support of or opposed to the constitution (over 90 per cent), the Electoral Commission dispatched teams of auditors, including United Nations officials, to a sample of governorates to assess the results. Audit teams visited Erbil, Basrah, Ninewah and Babil. In a report of these investigations released to the public, the Commission concluded that irregularities during the referendum were not on a scale to alter the outcome.

13. Ten days prior to the referendum, the Transitional National Assembly adopted a resolution that would have changed the way in which referendum results were calculated. Under the resolution of the Assembly, the word "*nakhibeen*" ("voters") would have been interpreted as "valid votes" when applied to a nationwide majority but as "registered voters" for the governorate majority that could block the passage of the constitution. In practice, this would have gravely disadvantaged those who were opposed to the constitution. The United Nations expressed deep concern that the dual interpretation of the same word, as well as any change in the rules at that very late stage, would endanger the credibility of the referendum. Two days later the resolution was reversed and one definition was applied for the word "voter" at both the national and governorate levels.

Preparations for the December elections

14. Negotiations to draft Iraq's Electoral Law coincided with the efforts to establish the Referendum Law. Following several weeks of discussions, on 8 August 2005 the Transitional National Assembly officially requested the support of the United Nations in drafting the Electoral Law, although the United Nations had recommended against adopting a new law at this late stage in the election process. The United Nations nevertheless did provide technical advice, as requested. The new law, adopted on 12 September, was designed to ensure that the electoral system and the resulting Parliament reflect Iraq's social and ethnic diversity, while continuing to provide guarantees for women and opportunities for minorities. The result is a governorate-based, proportional representation system for the election of 230 seats in the new Council of Representatives, with an additional 45 seats to be allocated on a compensatory or national basis.

15. The 15 October deadline for registering coalitions and political contestants with the Electoral Commission for the December election was 15 October. However, this deadline was extended twice to 21 October and then again to 28 October. A total of 307 political entities and 19 coalitions were certified, and more than 500 candidate lists were submitted to the Electoral Commission.

Secretary-General's visit to Iraq

16. My visit to Iraq on 12 November afforded me a first-hand opportunity to hear directly the concerns of Iraqi leaders about the situation in their country and to reiterate the commitment of the United Nations to support the political and economic reconstruction of Iraq. During my visit, I had the opportunity to hold separate meetings with Prime Minister Ibrahim Jaafari, Deputy Prime Minister Rowsch Nouri Shaways, and Vice-President Ghazi al-Yawar, as well as other Iraqi political and community leaders.

17. As the current political process outlined in resolution 1546 (2004) is nearing completion and as Iraq is about to enter a new phase in its transition, my visit was an opportunity to reiterate the message of national dialogue and reconciliation, which was again reaffirmed in Security Council resolution 1637 (2005). In this regard, the need to reach out to the Sunni community, some of whose leaders I had the opportunity to meet, remains of paramount importance. Equally important is the need for Iraqis to ensure free and credible elections on 15 December. I continued to stress the principles of an inclusive, participatory and transparent political process that is responsive to the demands of all constituencies. I also emphasized that a credible political process ultimately offered the best prospects for improving the security situation. An improvement in the basic living conditions of the Iraqi people and in the human rights situation also remained critical in this regard.

18. My trip also allowed me to meet with United Nations staff in Baghdad and to better measure the challenges the mission faced on a day-to-day basis, particularly in terms of security, accommodation and movement. I fulfilled a long-held wish to honour the memory of our 22 fallen colleagues, who were murdered in the attack against the United Nations Headquarters in Baghdad on 19 August 2003.

B. International and regional developments

19. At the invitation of the Secretary-General of the League of Arab States, Amre Moussa, a preparatory meeting for the Conference on Iraqi National Accord was held at the headquarters of the League in Cairo from 19 to 21 November 2005, with the participation of the President of Iraq, Jalal Talabani, Prime Minister Ibrahim Jaafari, Vice-Presidents Ghazi al-Yawar and Adel Abdul Mehdi and Minister for Foreign Affairs Hoshyar Zebari, and a wide spectrum of Iraqi political and community leaders. The meeting was also attended by Government representatives from the region and beyond, including representatives of the Permanent Members of the Security Council and representatives from the European Union, as well as from regional, international and other organizations.

20. During my recent trip to the Middle East in October, I had the opportunity to discuss this initiative with the Secretary-General of the League of Arab States and other regional leaders. From my discussions, it emerged that there was broad support for the initiative of the League in the region and that Iraqi interlocutors were also, in principle, well-disposed towards it. I therefore welcomed the initiative of the League for holding the preparatory meeting in Cairo and am pleased that my Special Representative was able to work closely with Secretary-General Moussa in preparing and facilitating the successful conduct of the meeting, at the request of both the Government of Iraq and the League.

21. The preparatory meeting agreed to convene the "Conference on Iraqi National Accord" in the last week of February or the first week of March 2006 in Baghdad, and requested the cooperation of the United Nations in this regard. The preparatory meeting was a significant event in that, for the first time, a broad range of representatives of Iraq's different communities came together to discuss national reconciliation and the future of their country, and one that could lead to broadening participation, including those who rejected the referendum but nevertheless participated in the constitutional process. The impact of this meeting will be seen in the coming months, building on discussions that were both constructive and substantive. The United Nations is fully supportive of such dialogue. I have therefore requested my Special Representative to continue to work closely with the Iraqi Government and the League of Arab States to ensure that these discussions continue.

III. Update on activities of the Mission

A. Political activities of the Special Representative of the Secretary-General

22. During the reporting period, my Special Representative continued his efforts aimed at broadening consensus on Iraq's draft constitution and in bringing together various parties to discuss contentious issues. These discussions, which took place on the margins of the meetings of the Constitution Drafting Committee of the Transitional National Assembly, were useful in bridging differences to a certain extent, although more time was needed to effectively address the concerns of all three communities. During the referendum period, my Special Representative stayed in constant contact with the Board of Commissioners of the Independent Electoral

Commission of Iraq to support their efforts in organizing and conducting the referendum. He also maintained regular contacts with the diplomatic community in Baghdad to update them on the evolving situation as the referendum results were audited and released.

23. On 21 September, my Special Representative reported to the Security Council on the activities of UNAMI and met with Permanent Representatives and the media in New York to brief them on the political transition in Iraq. With a view to expanding UNAMI's regional engagement, my Special Representative visited the Islamic Republic of Iran from 27 September to 1 October to discuss Iranian support for the political transition in Iraq. He also visited Kuwait on 2 October to raise with the Minister of Interior and Deputy Minister for Foreign Affairs the issue of the passage of the Agreement between UNAMI and the Government of Kuwait by the legislature of Kuwait. He visited Jordan from 13 to 16 November to meet with representatives of the Government of Jordan and Iraqi community leaders resident in Jordan.

B. Constitutional support activities

24. In accordance with resolution 1546 (2004) and at the invitation of the President of the Transitional National Assembly, the UNAMI Office of Constitutional Support continued its programme on the provision of technical advice and the promotion of dialogue for the drafting of the constitution. The Office also provided options with regard to substantive issues throughout the process, drawing on international expert advice, including a scheme based on international best practices for the management of water resources, balancing regional autonomy with national requirements. In implementing its constitutional support programme, UNAMI has been working closely with the United Nations Development Programme (UNDP), the United Nations Office for Project Services (UNOPS) and the United Nations Development Group (UNDG) Iraq Trust Fund. Activities are funded by the European Commission through its contribution of $24.5 million to the Iraq Trust Fund.

25. During the period under review, one of the primary tasks of the Office of Constitutional Support was arranging for the printing of five million copies of the draft constitution to enable the Iraqi people to make an informed choice in the referendum on the constitution. With funding from UNDP, UNAMI arranged for the printing of 3,787,420 copies of the draft constitution in the Arabic, Kurdish, Turkmen and Syriac languages (2,507,900 in Arabic, 904,520 in Kurdish, 250,000 in Turkmen and 125,000 in Syriac). Based on an agreement between UNDP and the Kurdistan Regional Government, the latter arranged for the printing of 600,000 copies in Kurdish by 12 October, in addition to the 304,520 copies printed in Baghdad. The distribution of the draft constitution was the responsibility of the Government of Iraq, resulting in the distribution of nearly 3.5 million copies around the country.

26. The printing of the draft text was carried out under considerable time, logistical and security constraints. The authenticated versions in Arabic and Kurdish were received by UNAMI on 19 and 29 September, respectively. Final amendments on the constitutional text were only completed on 12 October. Despite these constraints, UNAMI made every effort to assist in making these final amendments

known to the public before the 15 October referendum through print, television and radio media and through paid public service announcements, as well as through the website of the Constitution Drafting Committee.

27. UNAMI mobilized media outlets, international and national organizations, non-governmental organizations and other stakeholders in support of public dialogue on the drafting of the constitution through the UNDG Iraq Trust Fund. Numerous conferences, meetings and seminars with non-governmental organizations, women's groups and human rights groups were conducted before the referendum. Over 300,000 submissions were received from the public for inclusion in the drafting process. The UNOPS constitutional outreach support project engaged approximately 200 non-governmental organizations throughout Iraq in a dialogue pertaining to the writing of the constitution.

28. In accordance with its mandate under Security Council resolutions 1546 (2004) and 1619 (2005), UNAMI and its partners are currently preparing for its assistance role in 2006 following the anticipated completion of the political transition process endorsed in resolution 1546 (2004), including preparations for the constitutional review process envisaged by the constitution.

C. Electoral assistance activities

29. The International Electoral Assistance Team, made up of representatives from UNAMI and IFES, and joined in mid-October by experts from the European Union, operates under the United Nations umbrella and under the policy direction of the United Nations-appointed International Commissioner of the Independent Electoral Commission of Iraq, who serves on the Commission as a non-voting member. On 23 October 2005, Craig Jenness assumed his duties in Baghdad as International Commissioner of the Commission. The Assistance Team continued to play a leading role providing technical assistance to the Commission. Operationally, it assisted the Electoral Commission in organizing and executing the day-to-day requirements of the voter registration update, the 15 October referendum and the forthcoming December elections. Significantly, the Assistance Team helped in the recruitment and training of 170,000 polling officials and the procurement, transport and storage of all referendum and election materials. Additionally, the Team oversaw movement planning for personnel and equipment, liaised with Iraqi Security Forces and the Multinational Force and helped the Electoral Commission to sustain communications between individual polling stations and its headquarters in Baghdad.

30. The Assistance Team provided advice and support to the Electoral Commission in developing an electoral media strategy to reach out to Iraqi voters and to international and local media. This involved the design, production and distribution of 3 million posters and 1.5 million pamphlets in five languages; the production of a television training broadcast; the placement of advertisements on television, radio and in newspapers; the organization of news conferences; the maintenance of the Electoral Commission's website; and the organization of informational town hall meetings in various governorates. The Assistance Team also assisted with the publication of political entity informational pamphlets and referendum informational pamphlets in every major Iraqi newspaper for 10 days prior to the referendum. To further explain the process, the Public Information

Office produced a column called "The Constitutional Corner", which appeared twice a week in two Baghdad-based newspapers and weekly in a Kurdish paper in Erbil.

31. Legal support and advice was another need highlighted by the Electoral Commission. The Assistance Team helped to produce regulations for the Board of Commissioners of the Commission and provided general legal advice to the Commission, including analyses for the referendum result calculation and the equation used to allocate parliamentary seats to governorates. The Team also assisted the Commission in establishing procedures for the processing and resolution of complaints. Lawyers were hired from the Baghdad Bar as complaints officers and a complaints database was established.

32. The referendum tally centre, which the Assistance Team helped to establish, was tasked with tabulating composite referendum results from the 32,000 polling stations across Iraq. It began full operations on 17 October and finished on 23 October. The tally centre was open to visits and scrutiny by the media, electoral observers and political contestant agents throughout this period.

33. In accordance with its mandate, the United Nations will continue to provide technical assistance to the Iraqi out-of-country voting programme. However, my Special Representative formally expressed the opinion to the Iraqi Prime Minister that there was inadequate time to properly organize an out-of-country voting programme for the December elections and that doing so would divert resources and attention from the already challenging in-country operation. Despite these concerns, the Electoral Commission decided that it was politically imperative to proceed with the operation, with the assistance of Iraqi embassies.

D. Reconstruction, development, and humanitarian assistance

34. In accordance with paragraph 7 (b) of resolution 1546 (2004), UNAMI continued to support the efforts of the Government of Iraq in the areas of reconstruction, development and humanitarian assistance. UNAMI and United Nations agencies, programmes and funds focused on strengthening management capacity in ministries, coordinating the provision of basic services and supporting the restoration of public infrastructure. UNAMI also maintained its leading role in donor coordination.

35. UNAMI continued to support and facilitate the establishment of Iraqi-led sector working groups covering the health, education and rule of law sectors. The groups enabled concerned Iraqi ministries to articulate priorities, identify funding and engage in technical level discussions that ensure effective coordination and timely delivery. With generous bilateral financial support pledged by the Government of Sweden and additional funding from the UNDG Iraq Trust Fund, UNAMI supported the establishment of the Ministry of Planning and Development Cooperation's Donor Coordination Unit. In addition, a donor assistance database is now operational, with its first sample reports produced and distributed.

36. UNAMI led a donor group initiative with the State Ministry of Civil Society Affairs concerning irregularities in the registration of non-governmental organizations and the need for transparent and equitable procedures. These consultations, now held on a regular basis, led the Government to rescind an earlier policy to impose registration fees on national and international non-governmental

organizations and adopt simplified registration procedures. The government made public pronouncements through local newspapers conveying the above change, which were also disseminated through the UNAMI website.

37. Ongoing military activities have greatly affected the humanitarian situation in Iraq, especially in the western parts of the country. Despite occasional difficulties in securing access to affected populations, approximately 10,000 displaced families in al-Anbar and Ninewa provinces received food, shelter and non-food items. UNAMI and United Nations agencies worked well with Iraqi Security Forces and the Multinational Force in sharing information, thereby increasing awareness of the necessary conditions for delivery of humanitarian assistance. The challenge in the coming months, with the onset of winter, is to ensure that living conditions for displaced populations, some of which still live in tents in the desert, are adequate given the climate. Significant funding is required to provide continued care and maintenance of displaced families.

38. The focus on improved dialogue within each governorate as well as between the central Government and regional governments in pursuit of the implementation of the national development strategy remained a priority for the United Nations. In this regard, UNAMI facilitated regular participation by central Government officials in regional and governorate development forums. Similarly, UNAMI continued to facilitate participation by local officials in discussions with the Baghdad Coordination Group, the Iraqi Strategic Review Board and other central bodies responsible for reconstruction and development. At the request of the Prime Minister's office, UNAMI seconded a Senior Humanitarian Affairs Officer to assist in establishing an Emergency Coordination and Response Cell within the Prime Minister's office, and in developing a national contingency plan.

39. The urgency in establishing an emergency response mechanism was demonstrated by the tragic stampede at Aemma Bridge in Baghdad in early September 2005, which resulted in 1,500 pilgrims being killed or injured. United Nations agencies rapidly deployed a coordinated emergency response to assist the authorities in coping with the aftermath. Within 24 hours of the tragedy, the World Health Organization (WHO) provided emergency medical supplies, oxygen cylinders, cold storage units, and psycho-social support to Baghdad hospitals. The United Nations Children's Fund (UNICEF) delivered 100 emergency health kits to treat the high number of casualties and the Office of the United Nations High Commissioner for Refugees (UNHCR) supplied tents for temporary waiting areas at the overcrowded health facilities. With generous support from Italy, the UNDG Iraq Trust Fund and the International Organization for Migration (IOM), UNAMI designated UNOPS to lead the United Nations response in distributing aid packages consisting of food baskets and cash grants to over 1,200 victims and bereaved families within a week of the tragedy. I therefore call on donors to urgently support United Nations efforts in maintaining mechanisms for addressing humanitarian emergencies.

40. UNICEF has completed the rehabilitation (buildings and water and sanitation networks) of approximately 370 schools, while work on an additional 230 schools continues. UNDP commenced 24 reconstruction and employment projects, covering 10 governorates in Iraq, at a cost of approximately one million dollars. UNDP also supported the promotion of the constitutional process through local print, radio and television media.

E. International Reconstruction Fund Facility for Iraq

41. As at 31 October 2005, the total contributions to the UNDG Iraq Trust Fund of the International Reconstruction Fund Facility for Iraq amounted to $807 million. A total of 80 projects valued at $726 million had been approved by the end of October for funding under the Iraq Trust Fund. At the same time, contracts worth $520 million had been entered into (72 per cent of approved funding) and $328 million (45 per cent of approved funding) had been disbursed. These figures represent further progress in delivering assistance in Iraq. The totals include the nine quick impact projects, worth an estimated $38 million, which began in September subsequent to the request by the Iraqi Minister of Planning and Development Cooperation. The projects, due for completion by February 2006, address short-term priorities in education, health, and water and sanitation sectors.

42. The Chair of the Donor Committee of the International Reconstruction Fund Facility for Iraq, the Government of Canada, met with the Facility Coordination Committee and representatives of the World Bank and the United Nations on 4 October 2005 to assess progress achieved since the Dead Sea meeting, in particular on the UNDG Iraq Trust Fund quick impact projects. The management consultancy company PriceWaterhouse Coopers is undertaking the external review of the operations of the Trust Fund. Field work in Amman has already started and a draft report is expected before the end of 2005.

F. Human rights activities

43. The human rights situation in Iraq continues to warrant serious concern. Ongoing attacks by armed groups, violent crime, arbitrary arrests on a large scale and allegations of mistreatment in detention centres constitute major human rights violations. Claims of human rights violations are consistently brought to the attention of UNAMI Human Rights Office (HRO) by individuals and by national and international human rights organizations, as well as by local and foreign media. Owing to the prevailing security situation, it remains difficult to investigate these allegations of human rights violations.

44. Efforts by the Government of Iraq to protect the population are persistently undermined by the insurgency and terrorist acts, which occur on a daily basis. The bulk of the casualties from such attacks continue to be suffered by civilians although significant numbers of Iraqi police and recruits have been killed as well. Politicians and active members of Iraqi civil society have also been targeted. Repeated bombing campaigns by armed groups against civilians and mosques are increasing fears that community relations are descending into a pattern of fear, animosity and revenge.

45. The current state of affairs is exacerbated by allegations surrounding the actions of Iraqi special forces, under the command of the Ministry of Interior, and armed militias accused of engaging in human rights violations, including execution style killings and torture. Operations carried out by the Iraqi army and by the Multinational Forces have caused large-scale displacement of civilians. Allegations of indiscriminate and excessive use of force, including the use of aerial attacks resulting in non-combatant deaths, injuries and displacement, are a major cause of concern.

46. The Ministry of Interior has reiterated its commitment to human rights and called on the Police and the special forces to respect human rights, but violation patterns continue. A raid by Multinational Forces and Iraqi special forces of an internment facility run by the Ministry of Interior in Baghdad on 14 November 2005 revealed that 173 detainees were being held in the facility, many of whom reportedly bore marks of abuse. On 15 November, Prime Minister Jaafari announced the establishment of an investigation into Iraqi detention centres, and I welcomed such a move. On 25 November, the United Nations High Commissioner for Human Rights urged the Government to call for an international investigation and my Special Representative met with Prime Minister Jaafari and President Talabani on 26 and 27 November 2005, respectively, in order to reiterate concerns over abuses in detention centres and to stress that international involvement will assist the Iraqi Government in addressing the problem of detention in an impartial and objective way.

47. The overall number of detainees continues to grow due to frequent mass arrests undertaken by Iraqi Security Forces and the Multinational Force despite the release of hundreds of detainees due to modifications of the review procedures. The detention of individuals should be accompanied by adequate judicial oversight, which is often absent. The decision of the Government of Iraq to guarantee the right of detainees to participate in the constitutional referendum, following an appeal by UNAMI, was a welcome and positive step.

48. The Human Rights Office of UNAMI and the Office of the United Nations High Commissioner for Human Rights (OHCHR) continue to follow the trial of Saddam Hussein and his co-defendants. A member of the defence team was kidnapped and murdered in Baghdad on 21 October. On 8 November, a second defence lawyer was killed and another wounded in the same attack. While the trial resumed as scheduled on 28 November, I took note of the fact that two of the defendants were left without legal representation owing to the non-appearance of their lawyers. When one of the defendants rejected the replacement counsel appointed by the Court, the Trial Chamber recessed the proceedings until 5 December to give the defendant time to obtain replacement defenders of his choice.

49. In late September, the Human Rights Office, together with the Ministry of Human Rights, convened the final preparatory meeting prior to the establishment of a National Centre for Missing and Disappeared Persons, which is due to be established by law currently before the Transitional National Assembly. The UNAMI Human Rights Office continues to work with Iraqi institutions and civil society to change the culture of violence that permeates the country by seeking support for victims of human rights violations who reinstate themselves and their families into Iraqi society.

50. The Human Rights Office assisted the Ministry of Human Rights with training courses on human rights protection and monitoring that took place in September 2005. As part of the constitutional outreach effort, the Human Rights Office and UNOPS organized training sessions in Erbil, Baghdad and Basra on issues related to the constitutional protection of human rights for approximately 60 human rights organizations from all over Iraq.

51. UNAMI maintains a constructive dialogue with representatives of the General Inspector's Office in the Ministries of Interior, Human Rights, Justice and Defense

and is encouraged by the commitment shown by these representatives to improve human rights in Iraq. However, in order to foster a culture based on the rule of law and respect of human rights in Iraq, more will have to be done by all concerned. UNAMI stands ready to assist the Government of Iraq in setting up the appropriate accountability mechanisms to fight impunity.

IV. Security and operational issues

A. Assessment of the security situation

52. The security situation remains the most significant factor influencing the role, scope and effectiveness of United Nations activities in Iraq. The political transition and attempts to maintain security by the Iraqi Security Forces and the Multinational Force have been accompanied by an increasingly sophisticated and complex insurgency, underscored by high levels of violence, intimidation and murder. Public instability and insecurity is compounded by an increase in sectarian strife. While violence continues across the country, Baghdad, Mosul and the western province of Anbar are the areas that have been most seriously affected. The south and northern governorates have been the regions least affected, although these areas have experienced a rise in the number of incidents since my last reporting period. Sadly, the violence and terror associated with Iraq is not constrained by its physical boundaries, as the horrifying attacks in Amman on 9 November 2005 illustrate.

53. While the number of attacks during the latter half of the reporting period has been lower than average, the lethal character of these attacks has increased, with large numbers of casualties, especially among civilians. Members of the Iraqi Security Forces continue to be targeted, as do potential recruits for the police and army. Attacks on infrastructure have been stepped up, with the effect that oil and electricity distribution across the country has been severely disrupted. The diplomatic community continues to be targeted, with people being abducted and killed and their facilities attacked. United Nations staff members also remain vulnerable to attacks in Iraq.

54. The security environment continues to constrain both the Organization's presence and its ability to operate effectively in Iraq. In order to provide United Nations staff members with the best security possible, and therefore ensure that the Organization is able to maintain a presence in Iraq, we have had to introduce a number of mitigating and protective measures, which are both expensive and time-consuming. Even with these measures, the United Nations is reliant to a large degree on the Multinational Force for movement security and information. For example, the introduction of sophisticated and highly effective improvised explosive devices by the insurgents, as well as an increase in hostility in and around Basra, has meant that the Multinational Force in the area halted all ground movement for several weeks. This restriction effectively shut down much of the Organization's work in the area. Such difficulties mean that addressing the important work that needs to be done in Iraq is often a frustrating and laborious process. At the same time, incidents such as the recent mortar attack in the immediate vicinity of the United Nations compound in Baghdad underline the need to strictly adhere to the security measures and the principle of "as circumstances permit".

55. The contributions to a trust fund established for the purpose of supporting a distinct entity under unified command of the Multinational Force remain unchanged from the last report and stand at $16.5 million. I am grateful for the contributions to the trust fund by 14 Member States, the contribution of personal security and guard personnel from Fiji and for the "middle ring" support from countries such as Georgia, Romania and the Republic of Korea. The continued support of Member States in allocating necessary personnel, equipment and operating funds to UNAMI is needed if the United Nations mandate is to be fulfilled and the Government and people of Iraq given the assistance they require. I also welcome the adoption of Security Council resolution 1637 (2005), by which the Council decided that the mandate of the Multinational Force, as set forth in resolution 1546 (2004), shall be extended until 31 December 2006 and shall be reviewed at the request of the Government of Iraq or no later than 15 June 2006.

B. Facilities, logistics and support

56. UNAMI continues to maintain offices in Baghdad, Kuwait and Amman. Small United Nations liaison detachments are deployed in Basra and Erbil while the construction of regional offices is continuing. Some delays have been experienced due to security concerns, which resulted in additional engineering requirements on the sites. Provision of physical protection measures around the perimeter and the construction of overhead protection for UNAMI premises in Erbil is near completion. Refurbishment of the Basra Palace island compound has commenced with living accommodation for the Guard Unit already completed.

57. The acquisition of dedicated air assets for the United Nations in Iraq remains a major challenge. I have requested support from several Member States with the necessary capacity. However, to date, no positive responses have been received. Given the importance of dedicated air assets for UNAMI activities in Iraq, I have decided to put further deployments to Basra and Erbil on hold until these become available. I call on Member States with appropriate assets to give serious consideration to this request so that the Mission can perform its mandate in the most effective manner and open regional offices in Erbil and Basra as soon as possible.

58. The dispatch of military advisers has proved to be an essential way of providing increased situational and security awareness for UNAMI and has gone far beyond the primary objective of facilitating and coordinating the provision of support from the Multinational Force and Iraqi Security Forces. There is a need, however, for an increase in the number of UNAMI military advisers due to the need to correspond with the organizational structure of the Multinational Force in Iraq and to liaise with all factions and communities at the regional level. I therefore call on Member States to put forward the necessary personnel at the United Nations disposal.

C. Agreements

59. I welcome the finalization of an important agreement with the United States of America concerning the protection of the United Nations presence in Iraq by the Multinational Force, due to be signed on 8 December 2005. I look forward to the

signing and early finalization of implementing arrangements to be concluded in the field.

60. A status-of-mission agreement with the Government of Iraq was signed on 3 June 2005. According to its terms, the Agreement will enter into force upon the exchange of notes between the parties confirming the approval of the agreement by their respective competent authorities. The United Nations sent such a note to the Government of Iraq on 6 June 2005. The corresponding note of the Government of Iraq is still pending. I urge the Government of Iraq to confirm the approval of the agreement in order to place the status of UNAMI in Iraq on a firmer footing and to help UNAMI and its staff in the fulfilment of their tasks.

61. Despite numerous reminders by the United Nations, the agreement between the Government of Kuwait and the United Nations concerning the activities of UNAMI in Kuwait is still awaiting ratification by the relevant authorities of the country. Notwithstanding the cooperation extended to UNAMI by the Government of Kuwait thus far, it is imperative that this agreement be ratified in the near future to address the anomalous legal situation of UNAMI and administrative difficulties experienced by its staff.

V. Observations

62. With the adoption of a new constitution, Iraq is now moving towards the scheduled completion of its current political transition process outlined in resolution 1546 (2004): the holding of elections for a new Council of Representatives on 15 December. This will be the third time in less than one year that the people of Iraq will have exercised their democratic right to vote on the future of their country. The fact that the political process has remained on target against an ambitious timetable is a considerable achievement in itself, given the difficult conditions under which it has taken place. I am pleased that the United Nations was able to support the people and Government of Iraq at every step of this process.

63. Despite meeting these benchmarks, however, Iraq today remains beset with formidable security, political and economic challenges. The forthcoming election and formation of a new permanent Government will not mark the end of the country's political transition, but rather the beginning of a new phase in which responsible politics and leadership will make the difference between success and failure. I welcome, in this regard, the clear message given by the Security Council in its resolution 1637 (2005) for continued efforts after December in promoting national dialogue and reconciliation and shaping the democratic future of Iraq.

64. Inside Iraq, promoting an inclusive, participatory and transparent political process that responds to the aspirations of all of Iraq's communities continues to offer the best prospect for improving the overall security situation. The writing of a new constitution presented an opportunity for Iraq's main political constituencies to develop a national framework defining Iraq's future political shape and course. I welcome the extensive negotiations that have taken place among all political groups in an effort to accommodate each other as much as possible in this process. In this regard, the most positive development has been the determination of the Sunni Arab community to make their voice heard through engagement in the political process.

65. That such large numbers of people have participated actively in the referendum and the current political campaign is an encouraging sign of Iraqi popular support for democratic processes. For a permanent Government to enjoy the confidence of the Iraqi people will first require a credible electoral process. I therefore encourage the Independent Electoral Commission of Iraq and the thousands of domestic observers to remain vigilant to ensure a sound election. I also call for an open electoral process, in which candidates can campaign freely and voters can participate fully without fear for their personal safety.

66. Elections alone, however, will not resolve all of Iraq's political problems. The outcome of the referendum, which exposed Iraq as dangerously divided along sectarian lines, has underlined the importance for Iraq's communities to continue to reach out to one another. Irrespective of the outcome of the election, the formation of a permanent Government will provide a new opportunity to ensure that all Iraqis are adequately represented and made to feel that they have a stake in the future of their country.

67. Similarly, the constitutional review process envisaged by the constitution provides an opportunity to broaden the scope of support for the constitution itself and the institutions that are to be established under it. Although it is for the Iraqis alone to decide on their political system, it is in the interest of all that Iraq should be a viable and functioning State for all Iraqis. It is my hope, therefore, that Iraq's political constituencies will use the constitutional review process as an opportunity to resolve outstanding constitutional issues by engaging in a genuine national dialogue. Developing a national compact in this regard offers the best prospect for successfully implementing a constitution that will serve the interests of all Iraqis. The United Nations stands ready to continue to provide its assistance in this regard, as requested by the Government of Iraq.

68. I remain gravely concerned by the high levels of civilian fatalities and injuries caused by terrorist, insurgent, paramilitary and military actions. I am particularly concerned by the increasingly sectarian nature of the violence, especially in ethnically mixed areas, and the risk of escalation of tensions both between and within communities. The role of militias or irregular armed elements, sometimes wearing military or police uniforms, is particularly disturbing in this regard. The quicker and better Iraqi Security Forces can be trained, the sooner they will be able to assume full responsibility for their national security. Meanwhile, the Multinational Force and Iraqi Security Forces have a special responsibility to comply with their obligations under international humanitarian law, particularly with regard to the civilian population. The continuing lack of security represents a serious challenge to the objectives of the Security Council. Ultimately, military efforts alone cannot fully address the causes of violence in Iraq and cannot substitute for negotiated political solutions.

69. I also remain concerned about the human rights situation in Iraq, which holds the potential of undermining national dialogue and reconciliation efforts. While I welcome initial steps taken by the Government of Iraq to address the situation, I encourage it to do more to ensure that both past and present abuses are dealt with, based on the rule of law and in accordance with international obligations.

70. Equally important is the need for the new Iraqi Government to deliver tangibly on the needs and expectations of the Iraqi people in terms of infrastructure, basic services and employment. While Iraq has all the necessary resources and potential

to build a prosperous future for itself, strengthening the State's institutional capacity at the central, regional and local levels will remain a major challenge in the years to come. In this regard, I urge the international community to ensure that Iraq can continue to rely on sustained long-term assistance through the existing donor mechanisms.

71. Many of the above issues have recently been discussed for the first time by a broad range of Iraqi representatives during the preparatory meeting for the Iraqi national accord conference organized by the League of Arab States. I commend the League for its worthwhile initiative and am pleased that the United Nations was able to support it. Provided with adequate space and support from outside, the Iraqi parties have demonstrated their capacity to engage constructively in dialogue over difficult issues. This is an encouraging first step in a process that will require building on these initial discussions. The United Nations will continue to work closely with the League and the Iraqi Government to ensure that these discussions continue.

72. The League's initiative also demonstrated that the region is ready to support Iraqi efforts to reach out to one another, focus on what they have in common and share responsibility for resolving their differences peacefully. I therefore welcome greater regional engagement among Iraq and its neighbours, in full respect for Iraq's national sovereignty, political independence and territorial integrity. More broadly, the establishment of a permanent sovereign Iraqi Government should encourage the international community as a whole, including in the Security Council, to help normalize Iraq's regional and international status. I remain personally committed to help promote and support such efforts.

73. During my visit to Iraq, Jordan and Kuwait, I was impressed by the quality and dedication of all UNAMI national and international staff under the leadership of my Special Representative, Ashraf Qazi. Their extraordinary efforts are a tribute to the memory of our colleagues who lost their lives in Baghdad over two years ago. I wish to commend them all for carrying out the mandate you have given us in circumstances that remain among the most challenging faced by any United Nations mission at this time.

74. In order for UNAMI staff to do their job effectively, they need to have the necessary support, expertise and resources, including dedicated air assets. As observed in my last report, the prospective and phased transfer of responsibilities from the Multinational Force to the Iraqi Security Forces will create a new security environment that will have a significant impact on UNAMI operations. Arrangements for our work environment, accommodation and life support will have to be reviewed carefully, taking full account of any changes in the security situation.

75. I welcome the Security Council's reaffirmation, in its resolution 1637 (2005), of the leading role of the United Nations pursuant to resolution 1546 (2004) in assisting Iraq with further political and economic development, as circumstances permit and as requested by the Iraqi Government. My Special Representative and UNAMI are determined to implement their mandate to the fullest extent possible, in partnership with the Iraqi authorities and the international community.